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CLERK OF DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAMES L. BINGE, Individually and d/b/a
Accounting & Financial Services; and
TERRENCE A. BENTIVEGNA, individually
and d/b/a T.J. Enterprises,

Defendants.

5:04CV1419

Case No. JUDGE ADAMS

UNITED STATES' MOTION FOR PRELIMINARY INJUNCTION

Plaintiff, United States of America, pursuant to Fed.R.Civ.P. 65(a) and Sections 7402(a), 7407 and 7408 of the Internal Revenue Code (26 U.S.C.), respectfully moves for a preliminary injunction against the defendants, James L. Binge and Terrence A. Bentivegna, and all those in active concert or participation with them, enjoining them from:

- (a) organizing or selling any "Common Law Business Organization," "business trust," or "Asset Management Company," which are abusive tax shelters, plans, or arrangements that advise or encourage taxpayers to attempt to evade the assessment or collection of their correct federal tax; or any other purported trust instrument which has as its purposes the understating of a taxpayer's taxable income or federal income tax liabilities, or the claiming of income tax deductions for which there is no provision under the Internal Revenue Code ("IRC"), the Treasury Regulations (26 C.F.R.), or other applicable law;

- (b) Organizing, promoting, marketing, or selling (or assisting therein) the tax shelter, plan, or arrangement known as “the IRC § 861 argument” or any other abusive tax shelter, plan or arrangement that incites taxpayers to attempt to violate the internal revenue laws or unlawfully evade the assessment or collection of their federal tax liabilities or unlawfully claim improper tax refunds;
- (c) making false statements about the allowability of any deduction or credit, the excludability of any income, or the securing of any other tax benefit by the reason of participating in such tax shelters, plans, or arrangements;
- (d) acting as an “income tax return preparer,” as that term is defined in IRC § 7701(a)(36) of the Internal Revenue Code, including, but not limited to:
 - (1) taking any action in furtherance of aiding, assisting, advising or preparing for compensation federal tax returns of third-party taxpayers; and
 - (2) aiding or assisting in, or procuring or advising with respect to, the preparation of a return, affidavit, claim or other document for a third party in connection with any matter arising under the internal revenue laws;
- (e) engaging in any other activity subject to penalty under IRC §§ 6700 and 6701; and
- (f) engaging in other, similar conduct that substantially interferes with the proper administration of the internal revenue laws.

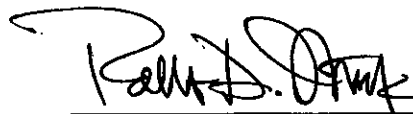
The grounds for this motion are fully set forth in the Memorandum of Law in Support of the United States’ Motion for Preliminary Injunction, which is incorporated herein by reference.

This motion for a preliminary injunction is based upon the pleadings, the files and records in this civil action, the Declarations of IRS Revenue Agents Denise M. Gill, David L. Hicks, Kathy Lindamood and Karen Westerholm, and the memorandum of law filed herewith.

WHEREFORE, the plaintiff, the United States of America, respectfully requests that a preliminary injunction issue pursuant to Rule 65(a) of the Federal Rules of Civil Procedure enjoining the defendants, James L. Binge and Terrence A. Bentivegna, and all those in concert or participation with them, from engaging in the conduct described above.

Dated this 22nd day of July, 2004.

GREGORY A. WHITE
United States Attorney



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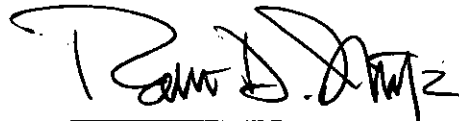
CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that service of the foregoing **UNITED STATES'**
MOTION FOR PRELIMINARY INJUNCTION was made on this 26th day of July, 2004,
by mailing a true and correct copy thereof by first-class mail, postage prepaid, to the following:

MR. JAMES L. BINGE
5878 Fulton Drive NW
Canton, Ohio 44718

MR. JAMES L. BINGE
9943 Portage Street, NW
Canal Fulton, Ohio 44709

MR. TERRENCE A. BENTIVEGNA
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